

REMARKS

After entry of this Amendment, the pending claims are: claims 1-8, 13, 14, 16-21 and 69-71. The Office Action dated February 5, 2008 has been carefully considered. Claims 9-12, 15, 22-68 and 72-74 have been canceled without prejudice. Applicants explicitly reserved the right to file one or more continuation and/or divisional applications directed at least toward these canceled claims. Claims 1 and 69 have been amended. The Examiner is thanked for the courtesy extended during the Examiner Interview held on April 3, 2008. Support for the amendments to claims 1 and 69 can be found throughout the originally filed specification and drawings, including paragraph 39 and Figs. 1A-2B. Accordingly, no new matter has been added to the application as a result of the amendment of claims 1 and 69. No new matter has been added. Reconsideration and allowance of the pending claims in view of the above Amendments and the following Remarks is respectfully requested.

In the Office Action dated February 5, 2008, the Examiner:

- rejected claims 1, 2, 5, 6, 16-21 and 69 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,836,948 to Zucherman *et al.* (“Zucherman”);
- rejected claims 3, 4, 7, 8, 13, 14, 15, 70 and 71 under 35 U.S.C. 103(a) as being unpatentable over Zucherman in view of U.S. Patent No. 7,048,762 to Sander *et al.* (“Sander”);
- rejected claims 23-25, 53-58, 60, and 62-66 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,458,638 to Kuslich *et al.* in view of Sander;

- rejected claims 4, 57, 70 and 71 under 35 U.S.C. 103(a) as being unpatentable over Kuslich in view of Sander; and
- rejected claim 60 under 35 U.S.C. 103(a) as being unpatentable over Kuslich in view of Sander in further view of Paul.

INDEPENDENT CLAIMS 1 AND 69

Independent claims 1 and 69 have been rejected as being anticipated by Zucherman. Per our discussion during the Examiner Interview held on April 3, 2008, independent claim 1 has been amended to recite, *inter alia*, an implant for use in a patient's spinal column in connection with a laminoplasty procedure of a cut bone having first and second segments, said implant comprising a body portion having a length, a width, a depth, and a longitudinal axis, the body portion being configured to be insertable between the first and second bone segments of the cut bone, the body portion having an outer surface and an inner surface forming a hollow region, the hollow region having a longitudinal axis coaxial with the longitudinal axis of the body portion, the body portion further having first and second open ends for contacting the first and second bone segments.

Similarly, independent claim 69 has been amended to recite, *inter alia*, an implant for implantation between first and second bone segments of a single vertebra of a patient's spinal column, the implant comprising a tubular body having a length, a width, a depth and a longitudinal axis, and an outer surface and an inner surface forming a thin tubular wall, the inner surface forming a hollow region, the hollow region having a longitudinal axis coaxial with the longitudinal axis of the tubular body, the

hollow region having first and second open ends for contacting first and second bone segments of the single vertebra.

As agreed upon during the Examiner Interview held on April 3, 2008, it is respectfully submitted that Zucherman does not disclose, teach, or suggest a body portion having a longitudinal axis wherein the body portion is configured to be insertable between the first and second bone segments of the cut bone, the body portion having a hollow region, the hollow region having a longitudinal axis coaxial with the longitudinal axis of the body portion, the body portion further having first and second open ends for contacting the first and second bone segments, as recited by independent claim 1 or a tubular body having a longitudinal axis and a hollow region, the hollow region having a longitudinal axis coaxial with the longitudinal axis of the tubular body, the hollow region having first and second open ends for contacting first and second bone segments of the single vertebra, as recited by independent claim 69.

Therefore, it is respectfully submitted that Zucherman does not disclose, teach, or suggest all of the limitations of independent claims 1 and 69. Thus, it is respectfully submitted that independent claims 1 and 69 are allowable over Zucherman for at least this reason. Withdrawal of these rejections and allowance of independent claims 1 and 69 is respectfully requested.

Furthermore, as claims 2-8 and 13, 14 and 16 -21 all depend from independent claim 1, and as claims 70 and 71 all depend from independent claim 69, it is submitted that these claims are equally allowable. Withdrawal of these rejections and allowance of claims 2-8, 13, 14, 16-21, 70 and 71 is also respectfully requested.

It is respectfully submitted that all other claims have been canceled without prejudice to expedite prosecution of the present application. As such, it is believed that all other rejections are now moot. Withdrawal of these rejections is respectfully requested.

CONCLUSION

No fee is believed due for this submission. If, however, the Commissioner determines otherwise, the Commissioner is authorized to charge any fees which may now or hereafter be due in this application to Deposit Account No. 19-4709.

In the event that there are any questions, or should additional information be required, please contact Applicants' attorney at the number listed below.

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Respectfully submitted,

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